

GAMAL ABDEL-HAFIZ	§	IN THE DISTRICT COURT
	§	
vs.	§	
	§	
ABC, INC., ABC NEWS, INC., ABC	§	
NEWS HOLDING COMPANY, INC.,	§	TARRANT COUNTY, TEXAS
DISNEY ENTERPRISES, INC.,	§	
WFAA-TV, L.P., WFAA OF TEXAS,	§	
INC., BELO CORP., CHARLES GIBSON,	§	
BRIAN ROSS, ROBERT WRIGHT, AND	§	
JOHN WRIGHT	§	67 th JUDICIAL DISTRICT

SPECIAL APPEARANCE MOTION
OBJECTING TO JURISDICTION

COMES NOW, Robert Wright ("Wright"), a named Defendant in this cause, and makes this special appearance under the authority of Texas Rule of Civil Procedure 120a, for the purpose of objecting to the jurisdiction of this Court over his person and/or property and would show as follows:

This special appearance is made with respect to the entire proceeding and is filed by Wright prior to any other plea, pleading or motion herein.

NO MINIMUM CONTACTS

Although there exists a dearth of jurisdictional allegations in this matter and the theory of lawful jurisdiction is unclear, as set forth in Wright's Affidavit, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, Wright is a nonresident and has no continuing or systematic contacts with the State of Texas. See *Guardian Royal Exch. Assurance, Ltd. v. English China Clays, P.L.C.*, 815 S.W.2d 223, 227 (Tex. 1991)(general jurisdiction

49

requires continuous and systematic contacts with forum that are unrelated to the cause of action). Wright has not availed himself of the privileges, benefits or protections of Texas law. Exhibit A. Further, Plaintiff has not specifically pled that Wright has had any contacts with Texas. As such, this Court is without general jurisdiction over Wright.

Moreover, Plaintiff's purported cause of action does not arise from any conduct by Wright that was directed at Texas --- thereby negating the existence of specific jurisdiction. See *Revell v. Lidov*, 317 F.3d 467, 475 (5th Cir. 2002) (knowledge of the particular forum in which a potential plaintiff will bear the brunt of the harm, and an intentional direction of conduct toward that forum, as distinguished from any other, form essential parts of the constitutional exercise of jurisdiction over defendants in defamation cases). As stated, Wright was not aware of, and did not foresee, any connections to the State of Texas in this matter and did not direct his conduct toward this State. Exhibit A.

At the time of the ABC interview, Wright understood that Plaintiff was assigned to, and resided in, Saudi Arabia. *Id.* Wright could therefore not have foreseen that any alleged harm, arising from his truthful statements about the FBI generally, might occur in Texas. *Id.* No conduct was ever directed toward the State of Texas, as distinguished from any other forum. *Id.* As a result, this Court also lacks specific jurisdiction over Wright — thereby rendering the Texas long-arm statute ineffectual under any recognized theory.

LONG-ARM JURISDICTION

A plaintiff bears the initial burden of pleading sufficient allegations to bring a nonresident defendant within the provisions of the long-arm statute and due process principles. *McKanna v. Edgar*, 388 S.W. 2d 927, 930 (Tex. 1965). With respect to Plaintiff's pleadings herein, other than conclusory legal assertions related to "constitutionally, sufficient minimum

contacts.” Plaintiff has failed his burden to allege jurisdictional facts that would support the lawful exercise of jurisdiction over Wright and/or his property by this Court in this matter. See *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 793 (Tex. 2002). Plaintiff has thereby failed to properly invoke the Texas long-arm statute.

Further, Wright need only negate any bases for personal jurisdiction that Plaintiff has actually alleged, if any. See *Kawasaki Steel Corp. v. Middleton*, 669 S.W.2d 199, 203 (Tex. 1985). Wright has done so. As set forth above, Wright is a nonresident and has no meaningful contacts with Texas and is therefore not amenable to process issued by the courts of Texas. Exhibit A. Moreover, in the absence of sufficient specific personal jurisdiction allegations, Wright meets his burden of proof by merely presenting evidence that he is a nonresident. See *Siskind v. Villa Found. for Educ., Inc.*, 642 S.W. 2d 434, 438 (Tex. 1982). Wright has gone above and beyond this burden.

As a result, the Texas long-arm statute is of no avail to Plaintiff because it reaches only as far as the constitutional requirements of due process will permit. See *U-Anchor Adver., Inc. v. Burt*, 553 S.W.2d 760, 762 (Texas 1977). And years of constitutional precedent dictate that jurisdiction can not be exercised under the facts at hand. So long, that is, as due process controls. The Plaintiff’s failure to allege jurisdictional facts , coupled with the facts set forth in Exhibit A, lead to only one reasonable conclusion — as a matter of law, this Court is without jurisdiction over Wright and/or his property in this matter. See *Marchand*, 83 S.W.3d at 793 (although factual questions exist, personal jurisdiction is a question of law). Here, the facts are clear.

As such, the exercise of jurisdiction over Wright by this Court would violate the well-established constitutional protections of due process. See *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)(personal jurisdiction is constitutional only when the defendant has established minimum contacts with the forum and the exercise of jurisdiction comports with

traditional notions of fair play and substantial justice). There are no purposeful contacts with Texas upon which jurisdiction over Wright can be reasonably justified.

CONCLUSION

Wright has not purposefully availed himself of the privileges, benefits or protections of Texas law and could not reasonably have foreseen being haled into a Texas court as a result of the ABC interview. See *SITQ E.U., Inc. v. Reata Restaurants, Inc.*, 111 S.W.3d 638, 646 (Tex. App. — Fort Worth 2003, pet. filed)(recognizing that foreseeability is an important consideration in the minimum contacts analysis). It was not reasonably foreseeable that Wright's remarks would impact upon Texas or cause any alleged harm therein.

Therefore, in the absence of meaningful contacts with Texas generally, and the further absence of any foreseeable relationship between Plaintiff, the ABC interview and the State of Texas, or the direction of conduct towards a Texas audience, the exercise of jurisdiction over Wright and/or his property would offend traditional notions of fair play and substantial justice.

The Texas long-arm statute, as interpreted under constitutional standards, simply does not reach Wright in this matter. Wright is not amenable to process issued by the Courts of this State and this Court should dismiss the entire proceeding as it relates to any and all claims against Wright.

WHEREFORE, premises considered, Defendant prays that the Court set this Motion for hearing and that, upon proper notice thereof, it sustain this special appearance and order that all claims against Wright be dismissed for want of jurisdiction.

Respectfully submitted,

JUDICIAL WATCH, INC.

Todd W. Hutton
State Bar No. 24012880
5735 Pineland Drive, Suite 275
Dallas, Texas 75231
Telephone: (214) 739-7188
Facsimile: (214) 739-8873

ATTORNEY FOR JOHN WRIGHT

OF COUNSEL:

JUDICIAL WATCH, INC.
Paul Orfanedes
D.C. Bar No. 429716
501 School Street, S.W., Suite 725
Washington, D.C. 20024
Telephone: (202) 646-5172
Facsimile: (202) 646-5199

CERTIFICATE OF SERVICE

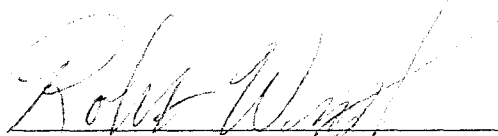
Pursuant to the Texas Rules of Civil Procedure, I hereby certify that a true and correct copy hereof was served on all counsel of record via certified mail return receipt requested on January____, 2004.

Todd W. Hutton

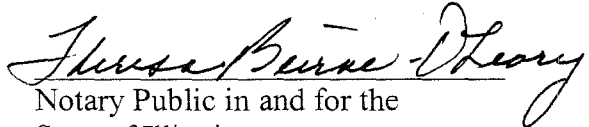
VERIFICATION

STATE OF ILLINOIS §
 §
COUNTY OF COOK §

Before me, the undersigned Notary Public, on this day personally appeared ROBERT WRIGHT, and after being duly sworn stated under oath that he is a named Defendant in this cause; that he has read the above Special Appearance Motion Objecting to Jurisdiction; and that every factual statement contained therein is within his personal knowledge and is true and correct.


ROBERT WRIGHT

SUBSCRIBED AND SWORN TO BEFORE ME on January 29, 2004.


Notary Public in and for the
State of Illinois

December 26, 2006
My Commission Expires

